Appeal No. **WD81013**

IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MICHAEL MCKINZY
Petitioner/Appellant,

v.

CARLETHA MCKINZY,
Respondent/Respondent.

Appeal from the Circuit Court of Jackson County
The Honorable David P. Kimminau
Case NO. 02FC-200809-04

APPELLANT'S BRIEF

Michael E. McKinzy, Sr.,
9606 W. 86th Street Apt. D
Overland Park, Kansas 66212
(913) 742-3621
michaelmckinzy@gmail.com

Appellant, Pro Se

Date: February 22, 2018

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Jurisdictional Statement

This is an appeal from a final judgment entered in the Circuit Court of Jackson County on August 11, 2017 (SL.F. 1). Petitioner/Appellant Michael McKinzy timely filed his notice of appeal on August 17, 2017. (LF. 1). This appeal does not involve any matter within the exclusive jurisdiction of the Missouri Supreme Court. Accordingly, this Court has appellate jurisdiction over this case pursuant to Article V, Section 3, Constitution of Missouri (1945), as amended.

Statement of Facts

This case stem from a Missouri Division of Child Support Enforcement (DCSE) administrative child support order issued on July 2, 2002, (July 2002 Order) against Petitioner. (SLF at 99). On June 24, 2002, Petitioner provided his "last known mailing address" to Missouri (DCSE) on its DCSE's Form CSE-600A-1 (8-91). (LF at 40). On July 10, 2002, Missouri (DCSE) filed its (July 2002 Order) with the Jackson County Circuit Court of Missouri, without mailing said order to Petitioner at his last known mailing address: 8609 E 87th St, Raytown, Mo 64138. (LF at 40). After the (July 2002 Order) was filed, it was docketed by the Jackson County Circuit Court of Missouri in the court's judgment journal as 02-MC201872 a judgment of the court. (LF at 13). On November 8, 2002, a Decree of Dissolution of Marriage ("Decree") was granted to Petitioner by the Jackson County Circuit Court of Missouri. (LF at 27). Pursuant the November 8, 2002, the Decree, Petitioner was ordered to "pay the sum of $1,165.00 per month as child support pursuant to the Order currently in place under Case No. 02-MC201872, payable through the Family Support Payment Center, P.O. Box 109002, Jefferson City, Mo 65110-9002. Said order shall remain in full force and effect until further order of the Court." (LF at 30). On September 15, 2015, Petitioner filed his Motion to Modify and Motion for Declaratory Judgment. (LF at 33). On January 8, 2017, Appellant moved to set aside the Court's July 10, 2002, docketed judgment due to Appellant not being served a copy of said order at his last known address or with service of process, in a form authorized by statute. (LF at 40). On August 11, 2017, the trial court entered it Finding of Facts and Conclusions of Law and Judgment pursuant to the Court's continuing personal jurisdiction from its July 10, 2002, docketed judgment. (LF at 66).

The trial court denied Appellant's motion to set aside the Court's July 10, 2002, docketed judgment, as a void judgment. (SLF at 5).

This appeal followed.

Point Relied On

Point 1

I. The trial court erred in denying Petitioner's motion to set aside the court's docketed judgment, entered on July 10, 2002, because the docketed judgment is void in that Petitioner was not served with process, or summoned, in a manner and form authorized by statute.

Johnson v. March, 376 SW 3d 26 (Mo. App.2012)

State ex rel. Illinois Farmers ***Ins. Co.*** *v. Gallagher***,** 811 S.W.2d 353 (Mo. banc 1991)

LaPresto v. LaPresto, 285.S.W.2d 568 (Mo. 1955)

Bate v. Greenwich Ins. Co., 464 S.W.3d 515 (Mo. Banc 2015)

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U.S. CONST. amend. XIV, §1

Argument

Point 1

The trial court erred in denying Petitioner's motion to set aside the court's docketed judgment, entered on July 10, 2002, because the docketed judgment is void in that Petitioner was not served with process, or summoned, in a manner and form authorized by statute.

The trial court erred in denying Appellant's motion to set aside the Court's Judgment docketed with the Jackson County Circuit Court on July 10, 2002. The Missouri Division of Child Support Enforcement (DCSE) administrative child support Order was issued on July 2, 2002, is *void ab initio,* because it was never mailed to Appellant's last known address: 8609 E 87th St., Raytown, Mo 64138, as mandated by state law nor in a manner and form authorized by statute *and* Appellant was denied his right to file a Petition for Judicial Review of the Order in the Jackson County Circuit Court within 30 days of its mailing, thereby, Peitioner was denied his U.S. CONST. amend. XIV, §1 constitutional rights to due process of law and equal protection of laws. RSMo Section 454.470.5 (2000); RSMo Section 454.475.5(2000); State ex rel. Illinois Farmers Ins. Co. v. Gallagher, 811 S.W.2d 353 (Mo. banc 1991); *Bate v. Greenwich Ins. Co.*, 464 S.W.3d 515, 517;; *Johnson v. March,* 376S.W.3d 26, 30; *McDonald v. Mabee*, 243 U.S. 90, 93 (1917); U.S. CONST. amend. XI §1; Mo. Const. Art. I §10

A Judgment which is void on the face of the record is entitled to no respect, and may be impeached at any time in any proceeding in which it is sought to be enforced or in which its validity is questioned by anyone with whose rights or interests it conflicts. 49 C.J.S., Judgment §401; **LaPresto v. LaPresto**, 285.S.W.2d 568 (Mo. 1955)

Standard of Review

The standard of review was recently set forth by the Missouri Supreme Court in Bate, 464, S.W.3d at 517:

Appellate review of whether a judgment should be vacated as void is a question of law that's reviewed ***de novo,*** giving no deference to the trial court's determination. *Bate,* 464 S.W.3d at 517

Finality of judgment is favored and the concept of a void judgment is narrowly restricted. A judgment is void if the trial court: (1) lacked subject matter jurisdiction, **(2) lacked personal jurisdiction, or (3) entered the judgment in a manner that violated due process.** *Bate,* 464 S.W.3d at 517 (internal citations omitted).

Discussion

The Missouri (DCSE) administrative child support ("Order ") issued on July 2, 2002, which was never mailed to Appellant at his last known mailing address: 8609 E 87th, Raytown, Mo. 64138, in violation of Appellant's **U.S. CONST. amend. XIV. §1** rights due process of law and equal protection of law, thereafter, the Jackson County Circuit Court docketed the Order as a Judgment of the Court on July 10, 2002, the docketed Judgment is ***void ab initio*** and must be set aside. A judgment is void if the trial court that rendered it **lacked personal jurisdiction or entered the judgment in a manner that violated due process**. State ex rel. Illinois Farmers **Ins. Co.** v. Gallagher, 811 S.W.2d 353 **(Mo. banc 1991)**; *Bate v. Greenwich Ins. Co.*, 464 S.W.3d 515.

> Service of process is prerequisite of the exercise of personal jurisdiction over defendant. Unless a defendant is served with process, or summoned, in a manner and form authorized by statute, the court is without authority to proceed. Where the statutorily prescribed requirements for process and the manner of service are not met, the court in which the action is pending is without power to adjudicate. **State ex rel. Illinois Farmers** Ins. Co. **v. Gallagher, 811 S.W.2d 353** (Mo. banc 1991),*Bate v. Greenwich Ins. Co.*, 464 S.W.3d 515, 517 (Mo banc 2015); LaPresto v. LaPresto, 285.S.W.2d 568 (Mo. 1955)

In this case the Director of the Missouri Division of Child Support Enforcement (DCSE) issued an administrative child support on July 2, 2002, and thereafter it was docketed with the Jackson County Circuit Court, so service of process was governed by section RSMo §454.470.5 (2000). That statute provides:

"The **parent** or person, **having custody of the child shall be sent** ***a copy of the order by registered or certified mail, return receipt requested, addressed to the parent's last known address*** or, if applicable, the parent's attorney's last known address. **The order is final**, and action by the director to enforce and collect upon the order, including arrearages, may be taken from the date of issuance of the order."

Section 454.470.5 (emphasis added).

Here, the process of service of the Missouri (DCSE) administrative child support (July 2, 2002 Order) pursuant to MoRev. § 454.470.5, mandated that the DCSE mail a copy of ***its*** (July 2002 Order) by registered or certified mailed to Appellant's last known address: 8609 E 87th St., Raytown, Mo 64138, within fourteen days of its issuance. Missouri (DCSE) (July 2002 Order) was docketed in the Jackson County Circuit Court judgment journal as a judgment of the Court on July10, 2002. ***Johnson v. March,*** 376S.W.3d 26, 30.

Appellant never was mailed a copy of Missouri (DCSE) (July 2002 Order).

When a court enters a judgment when no valid personal jurisdiction has been obtained over the defendant, the judgment is void. Furthermore, a judgment, being void due to lack of personal jurisdiction remains void forever and any kind of proceeding to cancel it is proper. **State ex rel. Illinois Farmers** Ins. Co. **v. Gallagher, 811 S.W.2d 353** (Mo. banc 1991); ***Bate v. Greenwich Ins. Co.***, 464 S.W.3d 515, 517.

The trial court committed reversible errors by not setting aside the Court's void judgment docketed on July 10, 2002, against Petitioner in violation of his U.S. CONST. amend. **XIV. §1** rights to due process of law and equal protection of laws; **State ex rel. Illinois Farmers** Ins. Co. **v. Gallagher, 811 S.W.2d 353** (Mo. banc 1991); **Bate *v. Greenwich Ins. Co.***, 464 S.W.3d 515, 517; ***Johnson v. March,*** 376S.W.3d 26, 30; ***McDonald v. Mabee***, 248, U.S 90, 93 (1917).

Conclusion

Based upon the foregoing, Petitioner respectfully requests this Court reverse the judgment denying Petitioner's motion to set aside the court's docketed judgment and remanding the case to the trial court with directions to set aside the July 10, 2002, docketed judgment as void.

Respectfully submitted,

Michael E. McKinzy Sr 2/22/2018

Michael E. McKinzy, Sr.
Appellant
9606 W. 86th Street Apt. D
Overland Park, Kansas 66212
(913) 742-3621
michaelmckinzy@gmail.com

Petitioner, Pro Se

Certificate of Compliance

I hereby certify that the disk enclosed has been scanned for viruses and is virus free and that I used Microsoft Word for word processing. I further certify that this brief complies with Rule 84.06(b) word limitations and that the brief contains 2206 words.

Michael E. McKinzy Sr 2/21/2018
Michael E. McKinzy, Sr.
Appellant, Pro se

Certificate of Service

I hereby certify that I mailed one copy and 1 computer diskette of Appellant's Brief were served by first-class mail postage prepaid to: Carletha R. Gaston, Respondent, at 8904 Cambridge Apt. 3205 Kansas City, Missouri 64138, Respondent, on this 22nd day of February, 2018.

Michael E. McKinzy Sr 2/21/2018
Michael E. McKinzy, Sr.

Appeal No.**WD81013**

IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MICHAEL MCKINZY
Petitioner/Appellant,

v.

CARLETHA MCKINZY,
Respondent/Respondent.

Appeal from the Circuit Court of Jackson County
The Honorable David P. Kimminau
Case NO. 02FC-200809-04

APPELLANT'S APPENDIX

Michael E. McKinzy, Sr.,
9606 W. 86th Street Apt. D
Overland Park, Kansas 66212
(913) 742-3621
Email: michaelmckinzy@gmail.com

Appellant, Pro se

Date: February 22, 2018

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Pet. 1

DEPARTMENT OF SOCIAL SERVICES
DIVISION OF CHILD SUPPORT ENFORCEMENT

IMMEDIATE INCOME WITHHOLDING ALTERNATIVE ARRANGEMENT AGREEMENT (ABSENT PARENT)

State regulation (13 CSR 30-4.020) allows for a second type of exception to immediate income withholding in non-public assistance cases. To meet the requirements for this exception, both you and the child(ren)'s custodial parent or caretaker must sign an agreement to waive immediate income withholding. You also must agree to notify DCSE when you change employers and provide proof that the child(ren) named in the Division of Child Support Enforcement's (DCSE's) Notice (CSE-600, CSE-600C, CSE-600S or CSE-600P) has/have medical insurance other than Medicaid.

DCSE has sent the custodial parent or caretaker an alternative arrangement agreement to permit payment other than through income withholding. **DO NOT contact the custodial parent or caretaker about signing his/her agreement.** You may contact the DCSE investigator in 15 days to verify whether or not the agreement has been received.

If you wish to apply for this exception to immediate income withholding, please complete this form and return it to DCSE **within 20 days.** You must meet one of the conditions in EACH of the following categories.

1. WRITTEN AGREEMENT

The first qualification is that you and the child(ren)'s custodial parent or caretaker BOTH sign a written agreement.

MM ☑ I request that immediate income withholding through my employer or other payor be waived. I agree to make all child support payments to the circuit clerk on or before the due date. I understand that this agreement is not valid unless the custodial parent or caretaker of the child(ren) named in the Notice (CSE-600, CSE-600S, CSE-600C or CSE-600P) consents to this arrangement.

NOTE: This agreement may be revoked if you make any payment after its due date.

2. INCOME INFORMATION

The second qualification for exemption from immediate income withholding requires you to contact DCSE when you change employers.

MM ☑ I agree to notify DCSE of my current employer's name and address as long as the administrative order is in effect. I will provide this information within 10 days of the date I change employers.

NOTE: Failure to provide employment information will void this agreement.

[redacted]

Exhibit "A"

[redacted]

3. MEDICAL INSURANCE

The third qualification for exemption requires that the child(ren) named in DCSE's Notice (CSE-600, CSE-600S, CSE-600C or CSE-600P) has/have medical insurance OTHER THAN MEDICAID. Check the appropriate box below and provide any requested documentation or information.

☐ I have applied for health insurance for the child(ren). I am enclosing a copy of the insurance application I have provided to my employer, union or insurance company.

MM ☑ I currently have health insurance for the child(ren). The policy information is:

Insurance company name: ______
Insurance company address: ______
Insurance company telephone number: ______
Policy #: ______ Group or subscriber #: ______
Name of your employer, union or other source of group insurance: IBEW L.U. #124 - Health & Welfare Fund
Names of persons covered by your policy: Barbara McKinzy, Deon McKinzy, Deron McKinzy, Michael McKinzy Jr.
Type of insurance ([✓ hospital], [✓ drugs], [✓ physician], [✓ dental], [✓ major medical], [✓ vision]): ______

☐ The child(ren)'s other parent has notified me that (s)he currently has medical insurance coverage OTHER THAN MEDICAID for the child(ren). The policy information is:

Insurance company name: ______
Policy # (if known): ______
Name of custodial parent's employer, union or other source of group insurance: ______

NOTE: Your cancellation of insurance coverage will void this agreement.

If you have met the requirements in all three categories, please sign below and return this form to the contact person whose name, address and telephone number are shown in the attached Notice. If you have questions, you may contact that person.

I certify that the information I have provided is true, and I agree to the alternative arrangement that exempts me from immediate income withholding. I understand that when I receive my child support order from the Division of Child Support Enforcement, I must make all payments to the circuit court. I understand payments will be due each month on the date stated in the order and an income withholding order will be effected if I fail to make any payment.

Michael McKinzy
(Signature)

6/24/02
(Date)

8609 E 87th St
Raytown, MO 64138
(Mailing Address)

492-76-1848
(Social Security Number)

STATE OF MISSOURI, DEPARTMENT OF SOCIAL SERVICES
BEFORE THE DIRECTOR, DIVISION OF CHILD SUPPORT ENFORCEMENT

CARLETHA R MCKINZY
4215 TRACY AVE

KANSAS CITY, MO 64110 1243
SSN: 498-70-3768
DOB: 05-29-1970
Petitioner

vs.

MICHAEL EUGENE MCKINZY
3743 FLORA AVE

KANSAS CITY, MO 64109 2709
SSN: 492-76-1848
DOB: 01-12-1969
Respondent

County: JACKSON

Court Order No.: 02MC201872

IV-D Case No.: [illegible]

02 JUL 10 AM 10:57

FILED
DEPT. OF CIVIL RECORDS
COURT ADMINISTRATOR'S OFFICE

JUL 10 2002

CIRCUIT COURT OF JACKSON CO., MO.
BY DCA

CERTIFICATION TO CIRCUIT COURT

COMES NOW the director of the Division of Child Support Enforcement, and pursuant to Chapter 454, RSMo, as appropriate, exhibits to this court true copies of the following documents:

Order (CSE-612) and attachments

Affidavit of Mailing (CSE-608)

The director respectfully asks you to:

1. Enter the attached administrative order in the judgment docket, pursuant to Section 454.490, RSMo. **(NOTE:** Section 454.490, RSMo, states that "Upon filing, the clerk shall enter the order in the judgment docket. Upon docketing, the order shall have all the force, effect and attributes of a docketed order or decree of the circuit court"); and

2. File-stamp 4 copy/copies of the administrative order (enter the identifying number on the forms, if applicable) and return it/them to this office. The remaining documents are for your file. Copies of these documents have been sent to all appropriate parties.

41

Gary Bailey
Director, Division of Child Support Enforcement

Thomas McClure
Authorized Representative of The Director

07 02 02
Date

If you have questions, contact:
AARON M SEAMANDS
DCSE Investigator
KANSAS CITY DCSE OFFICE
301 E ARMOUR BLVD
5TH FLOOR
KANSAS CITY MO 64111 1212
Telephone Number: (816) 889-5156
For the hearing impaired: 1-800-735-2966

CERTIFIED COPY
I certify that the foregoing document is a full, true and complete copy of the original on file in my office and of which I am legal custodian.
Mary A. Marquez
Court Administrator
Circuit Court of Jackson County, Missouri
20-Oct-2017 By

MO 886-00338 (12-00)
CSE-619 (Rev. 12-00)

STATE OF MISSOURI, DEPARTMENT OF SOCIAL SERVICES
BEFORE THE DIRECTOR, DIVISION OF CHILD SUPPORT ENFORCEMENT

CARLETHA R MCKINZY

,
Petitioner
DOB: 05-29-1970
SSN:
vs.
MICHAEL EUGENE MCKINZY
3743 FLORA AVE

KANSAS CITY, MO 64109 2709
Respondent
DOB: 01-12-1969
SSN: 492-76-1848

County: JACKSON CO COURT ADMINISTRATOR

Court Order No.: 02MC201872

IV-D Case No.: 40087059

FILED
DEPT. OF CIVIL RECORDS
COURT ADMINISTRATOR'S OFFICE

JUL 10 2002

CIRCUIT COURT OF JACKSON CO., MO.

BY ______ DCA

ORDER

This order pertains to the child(ren) of the above-named Respondent, as follows:

Name	Date of Birth
DERON T MCKINZY	06-08-1988
DEON M MCKINZY	06-08-1988
BARBARA J MCKINZY	01-06-1986
MICHAEL EUGENE MCKINZY JR	10-16-1989

The child(ren) are in the custody of Petitioner.

FINDINGS OF FACT

Respondent is the presumed father of MICHAEL EUGENE MCKINZY JR because the child(ren) were born while he and the child(ren)'s mother were married, or within 300 days after the marriage ended or after a court entered a separation decree. Section 210.822.1(1), RSMo.

Respondent is the presumed or legal father of DERON T MCKINZY, DEON M MCKINZY AND BARBARA J MCKINZY because he acknowledged paternity of the child(ren) by affidavit, which is filed with the Bureau of Vital Records or a similar agency in the child(ren)'s birth state and paternity acknowledgment by affidavit is permitted by law. Section 210.823, RSMo or Section 210.822.1(4), RSMo (1994).

On 07-01-2002 Respondent and Petitioner were personally served under Section 454.465.5, RSMo, with a Notice and Finding of Financial Responsibility and by their signatures below, agree to the terms of this order.

IT IS HEREBY DETERMINED THAT RESPONDENT IS THE PARENT OF THE ABOVE-NAMED CHILD(REN) AND OWES THE CHILD(REN) A DUTY OF SUPPORT.

FURTHER, CHILD SUPPORT IS HEREBY ORDERED AS FOLLOWS:

RESPONDENT OWES $ 1,165.00 PER MONTH CHILD SUPPORT FOR THE CHILD(REN) OF THIS ORDER.

The child support obligation conforms with the child support guidelines.

MO 886-0334 (7-01)
CSE-612 (Rev. 7-01)

Payments are due on the 15th day of each month, beginning on 07-15-2002.

The Division of Child Support Enforcement (DCSE) will send an immediate income withholding order to Respondent's employer or, if Respondent's employer is unknown, upon discovery of Respondent's employer.

Payments shall be made to the Family Support Payment Center, PO Box 109002, Jefferson City, MO 65110-9002. The Family Support Payment Center is trustee for all child support payments due under this order.

Current child support payments are due until further order of the court or DCSE or until Respondent's obligation to support ends, in accordance with Section 452.340, RSMo, or other applicable state law.

Respondent or Petitioner may ask, **in writing,** that DCSE review the child support order for possible modification three years after: a) the entry of a child support order; b) the modification of a child support order; or c) a modification review.

The Respondent's property is subject to collection actions including, but not limited to, income withholding if not done previously, garnishment, interception of federal and state income tax refunds, liens and execution thereon. Past-due child support accrues simple interest at the rate of one percent per month. (Section 454.520, RSMo)

Respondent shall inform DCSE of whether or not (s)he has access to health benefit plan coverage through an employer, union or group. If coverage is available, Respondent shall give DCSE the health benefit plan policy information, even if (s)he has not yet enrolled his/her child(ren) in the health benefit plan. Respondent must inform DCSE of any change of address or employment or health benefit plan coverage for the child(ren) of this order.

FURTHER, MEDICAL SUPPORT IS HEREBY ORDERED AS FOLLOWS:

Respondent shall inform the Division of Child Support Enforcement (DCSE) of whether or not (s)he has access to health benefit plan coverage through an employer, union, or group. If coverage is available, Respondent shall give DCSE the health benefit plan policy information, even if the child(ren) are not enrolled. Respondent must inform DCSE of any change in the child(ren)'s health benefit plan coverage. If Respondent provides coverage to the child(ren), (s)he shall give DCSE the health benefit plan policy number and any documents needed to allow Petitioners (including the state) to file claims directly with the health benefit plan carrier.

Respondent shall maintain or enroll the child(ren) in a health benefit plan: 1) available through his/her employer, union or group affiliation that provides services to the area where the child(ren) reside; and 2) in which (s)he is already enrolled or the least expensive plan offered by the employer, union or group affiliation, if not currently enrolled.

The following information is provided on the plan participant and alternate recipients:

Respondent's last-known address 3743 FLORA AVE , KANSAS CITY, MO 64109 2709

Alternate Recipient(s) DERON T MCKINZY, DEON M MCKINZY, BARBARA J MCKINZY and MICHAEL EUGENE MCKINZY JR

Alternate Recipient(s)' address 301 E ARMOUR BLVD 5TH FLOOR KANSAS CITY MO 64111 1212

Petitioner's Name CARLETHA R MCKINZY

The parent obligated to provide health benefit plan coverage may, with DCSEs approval, enroll the child(ren) in a plan that is comparable to that offered by his/her employer, union or group affiliation.

If Respondent fails to comply with the order, (s)he shall be liable to the Petitioner (or the state) for ALL of Petitioner's (or the state's) out-of-pocket medical and dental expenses or health benefit plan contributions or

[redacted]

premiums, according to Section 454.633, RSMo. The obligation to provide health benefit plan coverage remains in force until further order of the court or DCSE, or until the obligation to support ends, in accordance with Section 452.340, RSMo, or other applicable state law.

Pursuant to Section 454.490, RSMo, this order has the force, effect and attributes of a court order and is intended to serve as a Qualified Medical Child Support Order (QMCSO) under Section 609 of the Employee Retirement Income Security Act of 1974, as amended by the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193). It does not require a health benefit plan to provide any type or form of benefit, or any option, not provided under the plan.

THIS ORDER IS MADE BY CONSENT. By my signature below, I agree to this order and acknowledge service of a true copy of the Notice and Finding of Financial Responsibility.

Michael McKenzie
Respondent's Signature

6/28/02
Date Signed by Respondent

State of Missouri

County of Jackson

Subscribed and Sworn before me this 28th day of June ~~19~~ 2002

Deanna L. Elmore
Notary Public Signature

Deanna L. Elmore
Notary Public Name (Typed or Printed)

My commission expires 4-2-06

DEANNA L. ELMORE
Notary Public - State of Missouri
Jackson County
My Commission Expires 04/02/06

****

Petitioner's Signature

July 1, 2002
Date Signed by Petitioner

State of Missouri

County of Jackson

Subscribed and Sworn before me this 1St day of July ~~19~~ 2002

Deanna L. Elmore
Notary Public Signature

Deanna L. Elmore
Notary Public Name (Typed or Printed)

My commission expires 4-2-06

DEANNA L. ELMORE
Notary Public - State of Missouri
Jackson County
My Commission Expires 04/02/06

****

41

If you have questions about this order, contact: Gary Bailey

MO 886-0334 (7-01)
CSE-612 (Rev. 7-01)

AARON M SEAMANDS
DCSE Investigator
KANSAS CITY DCSE OFFICE
301 E ARMOUR BLVD
5TH FLOOR
KANSAS CITY, MO 64111 1212
Telephone: (816) 889-5156
For the hearing impaired: (TDD) 1-800-735-2966

Director, Division of Child Support Enforcement

By: ____________________
Authorized Representative of the Director

Date: 07 02 02

MO 886-0334 (7-01)
CSE-612 (Rev. 7-01)

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY
FAMILY COURT DIVISION

FILED
DEPT. OF CIVIL RECORDS
COURT ADMINISTRATOR'S OFFICE

NOV 14 2002

CIRCUIT COURT OF JACKSON CO., MO.
BY __________ DCA

IN RE THE MARRIAGE OF:)
)
MICHAEL MCKINZY,)
)
Petitioner,)
)
and) Case No. 02FC-200809
)
CARLETHA MCKINZY,)
)
Respondent.)

FINDINGS AND RECOMMENDATIONS JUDGMENT & DECREE OF DISSOLUTION OF MARRIAGE

On the 23RD day of September, 2002, the following proceedings were had and made of record before Honorable Robert M. Schieber, Commissioner of the Family Court, Division 43, in the above-captioned cause. Petitioner, Michael McKinzy, appears in person. Respondent, Carletha McKinzy, having filed an Answer on March 28, 2002, appears in person. This cause now coming on for hearing is submitted on the sworn testimony of Petitioner and as well as Petitioner's verified Petition and, having heard the evidence, the Court makes the following findings and recommendations:

1. The Court has jurisdiction over the parties and the subject matter in this action.

2. Petitioner has been a resident of the State of Missouri for ninety (90) days immediately preceding the commencement of this proceeding.

3. Thirty (30) days have elapsed since the filing of the petition.

4. Petitioner and Respondent are both over eighteen (18) years of age.

11/14/02 JDISS 6 mbo

[redacted]

5. Petitioner and Respondent were married on December 4, 1988 in Kansas City, Missouri.

6. Petitioner and Respondent separated on or about January 1, 2002.

7. There were four children born of the marriage, Deron T. born June 8, 1988, Deon M. born June 8, 1988, Barbara J. born January 6, 1986, and Michael Eugene, Jr. born October 16, 1989. Said minor children are presently under the care, custody and control of the Respondent. The children have resided continuously in the State of Missouri for the last 6 months. The is no other litigation presently pending regarding their care and custody. The is no other person other than the parties who has or claims to have a right to their care and custody. The parties have filed a Parenting Plan and the Court finds that the same is in the best interest of the minor children and the parties will be ordered to abide by the Parenting Plan.

8. Respondent is not now pregnant.

9. Neither Petitioner nor Respondent is now on active duty with the Armed Forces of the United States of America or any of its allies.

10. There remains no reasonable likelihood that the marriage of the parties can be preserved and, therefore, the marriage of the parties in this cause is irretrievably broken.

11. The parties have marital and non-marital property that needs to be divided by the Court. The Court has received into evidence Respondent's Form 1402A, Statement of Marital and Non-Marital Assets and Debts. After consideration of all relevant factors pursuant to Section 452.330 and the evidence received during the course of this hearing, the Court finds that the division of property as reflected in Respondent's Form 1402A, Statement

[redacted]

of Marital and Non-Marital Assets and Debts is fair and equitable and not unconscionable and the property and debt will be divided pursuant to that document. The house at 8609 E. 97th Street, Raytown, Missouri will be set aside to Respondent as her sole and separate property together with any and all equity therein. The home will be refinanced within 90 days from the date of this order and the parties will executed any and all documents needed to effectuate the transfer of this property. Respondent will thereafter be liable for the debt thereon and will hold the Petitioner harmless therefore. The retirement plans with the electrical union, Local Union 124 I.B.E.W. will be divided evenly between the parties. The Court will retain jurisdiction of this matter in order to enter a Qualified Domestic Relations Order with regard to those accounts.

12. The Court finds there is currently an Order for child support in place under IV-D Case No 40087059 showing the presumed amount of child support pursuant to Rule 88., Section 452.340, RSMo. and Form 14 is in the amount of $1,165.00 per month. The Court finds that said Order is not rebutted as being unjust or inappropriate and is therefore the correct amount of child support.

13. Petitioner has waived maintenance in open court. The Respondent requests maintenance and the Court finds, after consideration of all relevant factors pursuant to Section 452.335 RSMo, that the Respondent lacks sufficient property, including marital property apportioned to her, to provide for her reasonable needs and in unable to support herself through appropriate employment and after considering all other factors under this section the Court finds that the Petitioner shall pay the sum of $200.00 as and for maintenance beginning October 15, 2002 and every month thereafter until further Order.

14. Respondent has requested the restoration of her maiden name of Gaston. Said

[redacted]

request is not made in an effort to defraud creditors and will not be detrimental to any other person.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED BY THE COURT that the marriage heretofore existing between Petitioner and Respondent is dissolved.

IT IS FURTHER ORDERED AND ADJUDGED that the parties shall have joint legal and physical custody of the minor children, with primary custody of the minor child be awarded to the Respondent and the Petitioner shall exercise co-parenting time as set forth in the Parenting Plan.

IT IS FURTHER ORDERED that the Petitioner pay the sum of $1,165.00 per month as child support pursuant to the Order currently in place under Case No. IV-D 40087059, payable through the Family Support Payment Center, P.O. Box 109002, Jefferson City, MO 65110-9002. Said order shall remain in full force and effect until further order of the Court.

IT IS FURTHER ORDERED AND ADJUDGED that the Petitioner shall pay the sum of $200.00 as and for maintenance beginning October 15, 2002 payable through the Family Support Payment Center, P.O. Box 109002, Jefferson City, MO 65110-9002. Said order shall remain in full force and effect until further order of the Court.

IT IS FURTHER ORDERED AND ADJUDGED any and all debts since the separation shall be set aside to the individual who acquired that debt.

IT IS FURTHER ORDERED AND ADJUDGED the automobiles shall be set aside as is reflected in the Respondent's Form 1402A together with the debt thereon. If the Kia Sportage has been repossessed by the company, Petitioner shall be responsible for the remainder due and owing to the company.

[redacted]

IT IS FURTHER ORDERED that the Respondent's maiden name of Gaston be restored to her.

IT IS FURTHER ORDERED AND ADJUDGED that the costs of this action are assessed against the Petitioner.

Dated this 8 day of November, 2002.

Commissioner Robert M. Schieber

The parties are notified that the foregoing Findings and Recommendations have been entered this date by the Commissioner and all papers relative to the proceedings or case, together with the Findings and Recommendations have been transferred to a Judge of the Court. The Findings and Recommendations shall become the judgment of the Court upon adoption by Order of the Judge. The parties are further notified that a motion for re-hearing may be filed within fifteen days after the mailing of the Notice of Filing of Judgment. If a motion for re-hearing is not ruled on within forty-five days after said motion is filed, the motion is overruled for all purposes.

WAIVER OF REHEARING

The parties acknowledge their right to file a Motion for Rehearing and waive said right.

DATE

SIGNATURE-ATTORNEY/PARTY

DATE

SIGNATURE-ATTORNEY/PARTY

JUDGMENT AND ORDER ADOPTING COMMISSIONER'S FINDINGS AND RECOMMENDATIONS

It is hereby ordered that the Findings and Recommendations entered herein are adopted as a judgment of this Court.

11/8/02
DATE

JUDGE

NOTICE OF FILING OF JUDGMENT

I certify that the Notice of Filing of Judgment, along with the Commissioners Findings and Recommendations, including the notice of rehearing and statement of transfer to a Judge were served via U.S. Mail, postage prepaid and/or hand delivered to the parties on NOV 08 2002.

Michael E. McKinzy, Sr.
3743 Flora
Kansas City, MO 64109
PETITIONER

Carletha Renay McKinzy
8609 E. 87th Street
Raytown, MO 64138
RESPONDENT

Teresa Calvert, Judicial Administrative Assistant, Division 43

CERTIFIED COPY
I certify that the foregoing document is a full, true and complete copy of the original on file in my office and of which I am legal custodian.
Mary A. Marquez
Court Administrator
Circuit Court of Jackson County, Missouri
20-Oct-2017 By

[redacted]

Missouri Revised Statutes

Chapter 454
Enforcement of Support Law

←454.465 | Section 454.470.1 | 454.472→

August 28, 2016

Director to issue notice and finding of financial responsibility, when, procedure, contents--computation of periodic future support--hearing, when, failure of parent to request, result.

454.470. 1. The director may issue a notice and finding of financial responsibility to a parent who owes a state debt or who is responsible for the support of a child on whose behalf the custodian of that child is receiving support enforcement services from the division pursuant to section 454.425 if a court order has not been previously entered against that parent, a court order has been previously entered but has been terminated by operation of law or if a support order from another state has been entered but is not entitled to recognition under sections 454.850 to 454.997*. Service of the notice and finding shall be made on the parent or other party in the manner prescribed for service of process in a civil action by an authorized process server appointed by the director, or by certified mail, return receipt requested. The director may appoint any uninterested party, including but not limited to employees of the division, to serve such process. For purposes of this subsection, a parent who refuses receipt of service by certified mail is deemed to have been served. Service upon an obligee who is receiving support enforcement services under section 454.425 may be made by regular mail. When appropriate to the circumstances of the individual action, the notice shall state:

(1) The name of the person or agency with custody of the dependent child and the name of the dependent child for whom support is to be paid;

(2) The monthly future support for which the parent shall be responsible;

(3) The state debt, if any, accrued and accruing, and the monthly payment to be made on the state debt which has accrued;

(4) A statement of the costs of collection, including attorney's fees, which may be assessed against the parent;

(5) That the parent shall be responsible for providing medical insurance for the dependent child;

(6) That if a parent desires to discuss the amount of support that should be paid, the parent or person having custody of the child may, within twenty days after being served, contact the division office which sent the notice and request a negotiation conference. The other parent or person having custody of the child shall be notified of the negotiated conference and may participate in the conference. If no agreement is reached on the monthly amount to be paid, the director may issue a new notice and finding of financial responsibility, which may be sent to the parent required to pay support by regular mail addressed to the parent's last known address or, if applicable, the parent's attorney's last known address. A copy of the new notice and finding shall be sent by regular mail to the other parent or person having custody of the child;

(7) That if a parent or person having custody of the child objects to all or any part of the notice and finding of financial responsibility and no negotiation conference is requested, within twenty days of the date of service the parent or person having custody of the child shall send to the division office which issued the notice a written response which sets forth any objections and requests a hearing; and, that if the director issues a new notice and finding of financial responsibility, the parent or person having custody of the child shall have twenty days from the date of issuance of the new notice to send a hearing request;

(8) That if such a timely response is received by the appropriate division office, and if such response raises factual questions requiring the submission of evidence, the parent or person having custody of the child shall have the right to a hearing before an impartial hearing officer who is an attorney licensed to practice law in Missouri and, that if no timely written response is received, the director may enter an order in accordance with the notice and finding of financial responsibility;

(9) That the parent has the right to be represented at the hearing by an attorney of the parent's own choosing;

(10) That the parent or person having custody of the child has the right to obtain evidence and examine witnesses as provided for in chapter 536, together with an explanation of the procedure the parent or person having custody of the child shall follow in order to exercise such rights;

(11) That as soon as the order is entered, the property of the parent required to pay support shall be subject to collection actions, including, but not limited to, wage withholding, garnishment, liens, and execution thereon;

(12) A reference to sections 454.460 to 454.510;

(13) That the parent is responsible for notifying the division of any change of address or employment;

(14) That if the parent has any questions, the parent should telephone or visit the appropriate division office or consult an attorney; and

(15) Such other information as the director finds appropriate.

2. The statement of periodic future support required by subdivision (2) of subsection 1 of this section is to be computed under the guidelines established in subsection 8 of section 452.340.

3. Any time limits for notices or requests may be extended by the director, and such extension shall have no effect on the jurisdiction of the court, administrative body, or other entity having jurisdiction over the proceedings.

4. If a timely written response setting forth objections and requesting a hearing is received by the appropriate division office, and if such response raises a factual question requiring the submission of evidence, a hearing shall be held in the manner provided by section 454.475. If no timely written response and request for hearing is received by the appropriate division office, the director may enter an order in accordance with the notice, and shall specify:

(1) The amount of periodic support to be paid, with directions on the manner of payment;

(2) The amount of state debt, if any, accrued in favor of the department;

(3) The monthly payment to be made on state debt, if any;

(4) The amount of costs of collection, including attorney's fees, assessed against the parent;

(5) The name of the person or agency with custody of the dependent child and the name and birth date of the dependent child for whom support is to be paid;

(6) That the property of the parent is subject to collection actions, including, but not limited to, wage withholding, garnishment, liens, and execution thereon; and

(7) If appropriate, that the parent shall provide medical insurance for the dependent child, or shall pay the reasonable and necessary medical expenses of the dependent child.

5. The parent or person having custody of the child shall be sent a copy of the order by regular mail addressed to the parent's last known address or, if applicable, the parent's attorney's last known address. The order is final, and action by the director to enforce and collect upon the order, including arrearages, may be taken from the date of issuance of the order.

6. Copies of the orders issued pursuant to this section shall be mailed within fourteen days of the issuance of the order.

7. Any parent or person having custody of the child who is aggrieved as a result of any allegation or issue of fact contained in the notice and finding of financial responsibility shall be afforded an opportunity for a hearing, upon the request in writing filed with the director not more than twenty days after service of the notice and finding is made upon such parent or person having custody of the child, and if in requesting such hearing, the aggrieved parent or person having custody of the child raises a factual issue requiring the submission of evidence.

8. At any time after the issuance of an order under this section, the director may issue an order vacating that order if it is found that the order was issued without subject matter or personal jurisdiction or if the order was issued without affording the obligor due process of law.

(L. 1982 S.B. 468 § 15, A.L. 1984 H.B. 1275, A.L. 1986 H.B. 1479, A.L. 1997 S.B. 361, A.L. 2007 S.B. 25)

*Sections 454.850 to 454.999 were repealed by H.B. 1550 and S.B. 905 & 992, 2016

1997

1997

454.470. 1. If a court order has not been previously entered or if a support order has been entered but is not entitled to recognition pursuant to sections 454.850 to 454.997, the director may issue a notice and finding of financial responsibility to a parent who owes a state debt or who is responsible for the support of a child on whose behalf the custodian of that child is receiving support enforcement services from the division pursuant to section 454.425. ~~A copy of the notice and finding shall be mailed to the last known address of both parents and any person or agency having custody of the child within fourteen days of the issuance of such notice and finding~~. When appropriate to the circumstances of the individual action, the notice shall state:

(1) The name of the person or agency with custody of the dependent child and the name of the dependent child for whom support is to be paid;

(2) The monthly future support for which the parent shall be responsible;

(3) The state debt, if any, accrued and accruing, and the monthly payment to be made on the state debt which has accrued;

(4) A statement of the costs of collection, including attorney's fees, which may be assessed against the parent;

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(6) That the property of the parent is subject to collection actions, including, but not limited to, wage withholding, garnishment, liens, and execution thereon; and

(7) If appropriate, that the parent shall provide medical insurance for the dependent child, or shall pay the reasonable and necessary medical expenses of the dependent child.

5. The parent or person having custody of the child shall be sent a copy of the order by regular mail addressed to the parent's last known address or, if applicable, the parent's attorney's last known address. The order is final, and action by the director to enforce and collect upon the order, including arrearages, may be taken from the date of issuance of the order.

6. Copies of the orders issued pursuant to this section shall be mailed within fourteen days of the issuance of the order.

7. Any parent or person having custody of the child who is aggrieved as a result of any allegation or issue of fact contained in the notice and finding of financial responsibility shall be afforded an opportunity for a hearing, upon the request in writing filed with the director not more than twenty days after service of the notice and finding is made upon such parent or person having custody of the child, and if in requesting such hearing, the aggrieved parent or person having custody of the child raises a factual issue requiring the submission of evidence.

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address. A copy of the new notice and finding shall be sent by regular mail to the other parent or person having custody of the child;

(7) That if a parent or person having custody of the child objects to all or any part of the notice and finding of financial responsibility and no negotiation conference is requested, within twenty days of the date of service the parent or person having custody of the child shall send to the division office which issued the notice a written response which sets forth any objections and requests a hearing; and, that if the director issues a new notice and finding of financial responsibility, the parent or person having custody of the child shall have twenty days from the date of issuance of the new notice to send a hearing request;

(8) That if such a timely response is received by the appropriate division office, and if such response raises factual questions requiring the submission of evidence, the parent or person having custody of the child shall have the right to a hearing before an impartial hearing officer who is an attorney licensed to practice law in Missouri and, that if no timely written response is received, the director may enter an order in accordance with the notice and finding of financial responsibility;

(9) That the parent has the right to be represented at the hearing by an attorney of the parent's own choosing;

(10) That the parent or person having custody of the child has the right to obtain evidence and examine witnesses as provided for in chapter 536, RSMo, together with an explanation of the procedure the parent or person having custody of the child shall follow in order to exercise such rights;

(11) That as soon as the order is entered, the property of the parent required to pay support shall be subject to collection actions, including, but not limited to, wage withholding, garnishment, liens, and execution thereon;

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(13) That the parent is responsible for notifying the division of any change of address or employment;

(14) That if the parent has any questions, the parent should telephone or visit the appropriate division office or consult an attorney; and

(15) Such other information as the director finds appropriate.

2. The statement of periodic future support required by subdivision (2) of subsection 1 of this section is to be computed as follows:

(1) If there is sufficient information available to the division regarding the parent's financial and living situation, the scale and formula provided for in section 454.480 shall be used; or

(2) If there is insufficient information available to use the scale and formula, an estimate of ability to pay shall be the basis of the statement.

3. Any time limits for notices or requests may be extended by the director, and such extension shall have no effect on the jurisdiction of the court, administrative body, or other entity having jurisdiction over the proceedings.

4. If a timely written response setting forth objections and requesting a hearing is received by the appropriate division office, and if such response raises a factual question requiring the submission of evidence, a hearing shall be held in the manner provided by section 454.475. If no timely written response and request for hearing is received by the appropriate division office, the director may enter an order in accordance with the notice, and shall specify:

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(6) That the property of the parent is subject to collection actions, including, but not limited to, wage withholding, garnishment, liens, and execution thereon; and

(7) If appropriate, that the parent shall provide medical insurance for the dependent child, or shall pay the reasonable and necessary medical expenses of the dependent child.

5. The parent or person having custody of the child shall be sent a copy of the order by registered or certified mail, return receipt requested, addressed to the parent's last known address or, if applicable, the parent's attorney's last known address. The order is final, and action by the director to enforce and collect upon the order, including arrearages, may be taken from the date of issuance of the order. A copy of the order shall also be sent by regular mail to the person having custody of a child for whom an order is issued pursuant to this section.

6. Copies of the orders issued pursuant to this section shall be mailed within fourteen days of the issuance of the order.

7. Any parent or person having custody of the child who is aggrieved as a result of any allegation or issue of fact contained in the notice and finding of financial responsibility shall be afforded an opportunity for a hearing, upon the request in writing filed with the director not more than twenty days after service of the notice and finding is made upon such parent or person having custody of the child, and if in requesting such hearing, the aggrieved parent or person having custody of the child raises a factual issue requiring the submission of evidence.

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Mo. Const. Art. I, § 10

LEXISNEXIS (TM) MISSOURI ANNOTATED STATUTES

*** CURRENT THROUGH THE FIRST EXTRA SESSION OF THE REGULAR SESSION ***
*** OF THE 94TH GENERAL ASSEMBLY (2007) ***
*** MOST CURRENT ANNOTATION SEPTEMBER 2, 2008 ***

CONSTITUTION OF MISSOURI
ADOPTED 1945
ARTICLE I. BILL OF RIGHTS

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

Mo. Const. Art. I, § 10 (2008)

§ 10. Due process of law

That no person shall be deprived of life, liberty or property without due process of law.

USCS Const. Amend. 14, § 1

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CONSTITUTION OF THE UNITED STATES OF AMERICA
AMENDMENTS
AMENDMENT 14

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USCS Const. Amend. 14, § 1

Review Court Orders which may amend this Rule.

Sec. 1. [Citizens of the United States.]

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.